

REMARKS

The Office Action dated October 8, 2009 has been reviewed and carefully considered. Claims 1-5 have been cancelled. Accordingly, claims 6-14 remain in the application, with claims 6 and 10 being the only independent claims. Reconsideration of the above-identified application, as amended and in view of the following remarks, is respectfully requested.

Applicants respectfully disagree with, and explicitly traverse, the examiner's reason for rejecting the claims.

Claim 6 recites:

A display apparatus with a display unit, having means for background lighting at a side or the back of the display apparatus to produce a back light pattern;

characterized in that the means for background lighting comprise two illumination units being provided at the right-hand and left-hand of the display apparatus, said illumination units being formed as substantially vertically positioned, longitudinal light guides comprising means for coupling out light, each of the light guides being provided on at least one of its ends with a light source;

further characterized in that the light guides are rotatable along a longitudinal axis to thereby allow adjustment of the back light pattern [emphasis added].

Thus as previously presented, claim 6 recites the feature that the light guides are rotatable along a longitudinal axis to thereby allow adjustment of the back light pattern.

Figure 2 illustrates this feature of the invention. As described in Paragraph [0017] of the application as published, illumination units 4 provide background light onto a wall (3). The utility of the adjustment pattern is discussed in an embodiment described in paragraph [0007]:

An interesting display apparatus according to the present invention is characterized in that that the light guides are rotatable along a longitudinal axis. This feature allows adjustment of the back lighting pattern on wall. This is particularly useful in case that the screen of the display apparatus is positioned not parallel to the back wall, but under a certain angle. In such situation, the user can rotate the light guides in such way that under operation of the back lighting a spot on the wall is obtained which is well balanced on both sides of the display apparatus. By means of this feature, the desired impact on the viewer is maintained, even when the display apparatus is positioned under an angle with respect to the back wall.

Egawa et al teaches a spread illuminating apparatus used as an illuminating means for a liquid crystal display device (Abstract). Egawa does not teach or imply the rotability of his light sources. The Office Action asserts that the light sources of the current invention are Egawa's illumination units 7 (paragraph 3, line 10 of the Office Action). Contrary to the assertion in the Office Action (page 3, lines 5-10 of the Office Action), nothing in Egawa teaches that his illumination units can be rotated.

The Office Action asserts both in its rejection at page 3 and in its response to applicants' previous arguments at page 6, that "by switching light guides there will be some resulting adjustment in the back light pattern." Even if true and such a switching result arguably yields what could remotely be called an "adjustment," applicants submit

that “switching light guides” is patentable distinct from the claimed feature of rotating light guides along a longitudinal axis.

Further, applicants submit that Egawa teaches away from the feature of rotating light guides along a longitudinal axis. Egawa teaches that the output of his illumination units 7 enters a transparent substrate 2 (see for example, line 6 of paragraph [0013]). As illustrated in Figs. 2 and 4 of Egawa and described in corresponding paragraphs [0041]-[0049], illumination units 7 create an overlapping pattern to thereby result in his apparatus providing a more uniformly radiated light. Applicants respectfully submit that any rotation of Egawa’s illumination units 7 is inconsistent with the angles and overlapping regions depicted in Fig. 2. That is, rotation of Egawa’s light source would interfere with the overlapping regions and uniform light radiation required by his invention.

A claim is anticipated only if each and every element recited therein is expressly or inherently described in a single prior art reference. Egawa cannot be said to anticipate the present invention, because Egawa fails to disclose each and every element recited. As shown, Egawa fails to disclose, and in fact teaches away from the feature of "the light guides are rotatable along a longitudinal axis to thereby allow adjustment of the back light pattern" as is recited in claim 6.

Having shown that Egawa fails to disclose each and every element claimed, applicants submit that the reason for the Examiner's rejection of claim 6 has been

overcome and can no longer be sustained. Applicants respectfully request reconsideration, withdrawal of the rejection and allowance of claim 6.

With respect to claim 10, this claim recites:

A display apparatus with a display unit, having means for background lighting at a side or the back of the display apparatus;

characterized in that the means for background lighting comprise two illumination units being provided at the right-hand and left-hand of the display apparatus, said illumination units being formed as substantially vertically positioned, longitudinal light guides comprising means for coupling out light, each of the light guides being provided on at least one of its ends with a light source;

further characterized in that the means for background lighting produces a back light pattern on a wall [emphasis added].

In introducing this claim in their July 27, 2009 amendment (at page 8, 2nd full paragraph), applicants noted that “[s]upport for this feature is found, *inter alia*, in the specification at paragraph [0007]. Egawa fails to teach or suggest this feature of claim 10. The referenced paragraph [0007] states:

An interesting display apparatus according to the present invention is characterized in that that the light guides are rotatable along a longitudinal axis. This feature allows adjustment of the back lighting pattern on wall. This is particularly useful in case that the screen of the display apparatus is positioned not parallel to the back wall, but under a certain angle. In such situation, the user can rotate the light guides in such way that under operation of the back lighting a spot on the wall is obtained which is well balanced on both sides of the display apparatus. By means of this feature, the desired impact on the viewer is

maintained, even when the display apparatus is positioned under an angle with respect to the back wall [emphasis added].

The emphasized portion noted above clearly states that the wall and the display apparatus are separate entities. Further, paragraph 17 discusses how the display apparatus is mounted to a wall (3) of a room and the background light is formed onto the wall.

In the current Office Action the examiner argues “that the term ‘wall’ is vague, and that a wall is defined as the outermost film or layer of a structural material protecting, surrounding, and defining the physical limits of an object (i.e., think blood cell wall). Accordingly, a liquid crystal display member can constitute a ‘wall.’”

Section 22111.01 of the Manual of Patent Examining Procedure (hereinafter, “MPEP”) addresses the issue of “plain meaning” of claim terms:

2111.01 Plain Meaning [R-5]

I. THE WORDS OF A CLAIM MUST BE GIVEN THEIR "PLAIN MEANING" UNLESS **>SUCH MEANING IS INCONSISTENT WITH< THE SPECIFICATION

****>Although<** claims of issued patents are interpreted in light of the specification, prosecution history, prior art and other claims, this is not the mode of claim interpretation to be applied during examination. During examination, the claims must be interpreted **as broadly as their terms reasonably allow**. *In re American Academy of Science Tech Center*, 367 F.3d 1359, 1369, 70 USPQ2d 1827, 1834 (Fed. Cir. 2004) (The USPTO uses a different standard for construing claims than that used by district courts; during examination the USPTO must give claims their broadest **reasonable interpretation >in light of the specification<.**) This means that the words of the claim must be given their plain meaning unless ****>the plain meaning is inconsistent with<** the specification. *In re Zletz*, 893 F.2d 319, 321, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989) (discussed

below); *Chef America, Inc. v. Lamb-Weston, Inc.*, 358 F.3d 1371, 1372, 69 USPQ2d 1857 (Fed. Cir. 2004) (**Ordinary, simple English words whose meaning is clear and unquestionable, absent any indication that their use in a particular context changes their meaning, are construed to mean exactly what they say.** Thus, "heating the resulting batter-coated dough to a temperature in the range of about 400°F to 850°F" required heating the dough, rather than the air inside an oven, to the specified temperature.). **

And

III. < "PLAIN MEANING" REFERS TO THE ORDINARY AND CUSTOMARY MEAN-ING GIVEN TO THE TERM BY THOSE OF ORDINARY SKILL IN THE ART

"[T]he ordinary and customary meaning of a claim term is the meaning that the term would have to a person of ordinary skill in the art in question at the time of the invention, i.e., as of the effective filing date of the patent application." *Phillips v. AWH Corp.*, *415 F.3d 1303, 1313<, 75 USPQ2d 1321>, 1326< (Fed. Cir. 2005) (*en banc*). *Sunracer Roots Enter. Co. v. SRAM Corp.*, 336 F.3d 1298, 1302, 67 USPQ2d 1438, 1441 (Fed. Cir. 2003); *Brookhill-Wilk 1, LLC v. Intuitive Surgical, Inc.*, 334 F.3d 1294, 1298 67 USPQ2d 1132, 1136 (Fed. Cir. 2003)("In the absence of an express intent to impart a novel meaning to the claim terms, the words are presumed to take on the ordinary and customary meanings attributed to them by those of ordinary skill in the art."). **It is the use of the words in the context of the written description and customarily by those skilled in the relevant art that accurately reflects both the "ordinary" and the "customary" meaning of the terms in the claims. *Ferguson Beauregard/Logic Controls v. Mega Systems*, 350 F.3d 1327, 1338, 69 USPQ2d 1001, 1009 (Fed. Cir. 2003) (Dictionary definitions were used to determine the ordinary and customary meaning of the words "normal" and "predetermine" to those skilled in the art. **In construing claim terms, the general meanings gleaned from reference sources, such as dictionaries, must always be compared against the use of the terms in context, and the intrinsic record must always be consulted to identify which of the different possible dictionary meanings is most consistent with the use of the words by the inventor.**);**

It is clear from the above emphasized quotations from the MPEP that the examiner's argument that the claim is not novel over Egawa because a liquid crystal

display member can constitute the claim term “wall” cannot be sustained. That is, the examiner’s interpretation of the meaning of the term “wall” is not reasonable. Assuming, *arguendo*, that a dictionary meaning permits such an interpretation, a person of ordinary skill in the art would not so interpret it. Further, when compared against the terms in context and the intrinsic record, the use most consistent with the words of the inventor is a room wall. A surface of a liquid crystal display is clearly not within a reasonable definition of the term “wall” as discussed in the above quoted sections of the MPEP addressing how the terms of a claim should be given their ordinary meaning.

A claim is anticipated only if each and every element recited therein is expressly or inherently described in a single prior art reference. Egawa cannot be said to anticipate the present invention, because Egawa fails to disclose each and every element recited. As shown, Egawa fails to disclose that the means for background lighting produces a back light pattern on a wall.

Having shown that Egawa fails to disclose each and every element claimed, applicants submit that the reason for the Examiner's rejection of claim 10 has been overcome and can no longer be sustained. Applicants respectfully request reconsideration, withdrawal of the rejection and allowance of claim 10.

With regard to claims 7-9 and 11-14 these claims ultimately depend from one of the independent claims, which have been shown to be not anticipated and allowable in view of the cited references. Accordingly, claims 7-9 and 11-14 are also allowable by virtue of their dependence from an allowable base claim.

For all the foregoing reasons, it is respectfully submitted that all the present claims are patentable in view of the cited references. A Notice of Allowance is respectfully requested.

Respectfully submitted,

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A handwritten signature in black ink, appearing to read 'Thomas Onka', written over a horizontal line.

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